

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KEVIN GUY,	:	
	:	
v.	:	CIVIL ACTION
	:	No. 18-976
	:	
BARRY SMITH, et al.,	:	
Respondents.	:	

ORDER

This 18th day of April 2019, upon careful and independent consideration of the pleadings and record herein, and after review of the Report and Recommendation (ECF No. 32) issued by the Honorable Thomas J. Rueter, United States Magistrate Judge, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;¹
2. Petitioner's petition for writ of habeas corpus is **DENIED**; and
3. A certificate of appealability is not granted.

/s/ Gerald Austin McHugh
United States District Judge

¹ I adopt the Report and Recommendation on the basis that *Alleyne v. United States*, 570 U.S. 99 (2012) is not applicable to the facts presented by the present petition. The applicability of *Alleyne* under other circumstances is not before me. Specifically, I am not prepared at this juncture to endorse the proposition that *Alleyne*'s principles apply only to mandatory sentences, as suggested by *United States v. Sechler*, 535 F. App'x 150 (3d Cir. 2013), a non-precedential decision.